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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/040,292

10/25/2001

Frederick M. Morgan

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10/18/2005

FOLEY HOAG, LLP

PATENT GROUP, WORLD TRADE CENTER WEST

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BOSTON, MA 02110

EXAMINER

A, MINH D

ART UNIT

PAPER NUMBER

2821

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,292

Applicant(s)

MORGAN ET AL.

Examiner

Minh D A

Art Unit

2821

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-36,38-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34,35,39,61 and 62 is/are allowed.
- 6) ☒ Claim(s) 11-12, 16, 21-22 and 26 is/are rejected.
- 7) ☒ Claim(s) 13-15,17-20,23-25 and 27-33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1/25/05, 3/4/05, 2/14/05, 6/12/04, 6/30/05, 7/22/05
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2 Claims 11-12, 16, 21-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Tang et al (US 6,113,858).

Regarding claim 11, Tang discloses a monitor with automatic measurement comprising at least one light source (62 and 92) adapted to be supported by one of a pool and a spa to illuminate a liquid contained in the one of the pool and the spa, the at least one light source including at least one LED. See figure 1, col.2, lines 45-67 to col.7, lines 1-34.

Regarding claim 12, Tang discloses at least one light source adapted to be supported by one of a pool and a spa to illuminate a liquid contained in the one of the pool and the spa, the at least one light source including at least one LED, wherein the one of the pool and the spa has a range of typical liquid levels of the liquid during use, and wherein the at least one light source is adapted to be disposed below the range of typical liquid levels. See figure 1, col.2, lines 45-67 to col.7, lines 1-34.

Regarding claim 16, Tang discloses at least one light source adapted to be supported by one of a pool and a spa to illuminate a liquid contained in the one of the pool and the spa, the at least one light source including at least one LED, and an

Art Unit: 2821

interface coupled to the at least one light source, the interface being adapted to engage mechanically and electrically with a conventional light socket supported by the one of the pool and the spa. See figure 1, col.2, lines 45-67 to col.7, lines 1-34.

Regarding claim 21, Tang discloses wherein the at least one LED includes at least two differently colored LEDs. See figure 8.

Regarding claim 22, Tang discloses wherein the at least one LED includes at least one red LED, at least one green LED, and at least one blue LED. See figure 8, col.5, lines 43-67.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over by Tang et al (US 6,113,858).

Regarding claim 26, Ishiharada discloses essentially discloses the claimed invention but does not explicitly disclose that the usages at least one light source is adapted to generate a remotely controllable variable radiation output. It would have been an obvious matter of design choice to employ shiharada in order to maximize the usage of his invention, since applicant does not disclose that, all of these limitations can

Art Unit: 2821

solve any stated problem and for any particular purpose. Therefore, it appears that the invention would not provide any improvement but merely apply the invention in different presentation.

Allowable Subject Matter

5. Claims 13-15, 17-19, 20, 23-25 and 27-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim

The following is a statement of reasons for the indication of allowable subject matter:

The prior art does not teach that, an encapsulant to protect the at least one light source from moisture and the conventional light socket includes a wedge type light socket; and the interface is adapted to engage mechanically and electrically with the wedge type light socket recited in dependent claims 13 and 17.

The prior art does not teach that, at least one light source is adapted to generate radiation of different colors without requiring the use of a color filter and the at least one LEDs includes at least two independently controllable LEDs recited in dependent claims 20, 23 and 27.

6. Claims 34, 35, 39, 61-62 are allowed.

The prior art does not teach that, at least one controller coupled to the at least one light source to control radiation output by the at least one light source, wherein the at least one light source includes at least a first light source and a second light source each adapted to be supported by the one of the pool and the spa and to illuminate the

Art Unit: 2821

liquid contained in the one of the pool and the spa in combination with all limitations recited in independent claim 34.

The prior art does not teach that, at least one LED; and an interface coupled to the at least one LED, the interface being adapted to engage mechanically and electrically with a wedge type light socket supported by the one of the pool and the spa wherein the at least one LED includes at least two differently colored LEDs recited in independent claim 35.

The prior art does not teach that, the interface being adapted to engage mechanically and electrically with a wedge type light socket supported by the one of the pool and the spa, wherein the one of the pool and the spa has a range of typical liquid levels of the liquid during use, wherein the wedge type light socket is located below the range of typical liquid levels, and wherein the light fixture further includes: an encapsulant to protect the at least one LED from moisture in combination with all limitations recited in independent claim 39.

The prior art does not teach that, acts of engaging at least one light fixture mechanically and electrically with a wedge type light socket supported by the one of the pool and spa, the at least one light fixture including at least one LED; and b) providing at least power to the at least one light fixture via the wedge type light socket to illuminate the liquid in combination with all limitations recited in independent claims 61-62.

Art Unit: 2821

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Silveri. (US RES 37,055) and Silveri. (US 5,221,444) are cited to show a light pool.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Minh A whose telephone number is (571-272-1819). The examiner can normally be reached on M-F (7:30 –4:30 PM).

If attempts to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Don Wong, can be reached on (703) 308-4856. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and (703) 872-9319 for final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0956.


TUYET VO
PRIMARY EXAMINER

Examiner

Minh A

Art unit 2821

10/14/05